



02-03-03 901651
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: BEERELLI SESHU

Serial No.: 09/914,508

Group Art Unit: 1651

Filed: 11/07/01

Examiner: AFREMOVA, Vera

For: HUMAN MESENCHYMAL PROGENITOR CELL

Attorney Docket No: 0152.00418

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AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action dated January 3, 2003, Paper Number 6.
Restriction to one of the following Groups was required under 35 USC §121:

I. Claims 22-25, drawn to isolated pluri-differentiated mesenchymal progenitor cells or to therapeutic compositions comprising isolated pluri-differentiated mesenchymal progenitor cells and a pharmaceutical carrier.

II. Claim 26, drawn to a method for preparing or purifying pluri-differentiated mesenchymal progenitor cells.

III. Claims 27-30, drawn to a method for enhancing bone marrow engraftment in a mammal by administering isolated pluri-differentiated mesenchymal progenitor cells.

IV. Claims 31-34, drawn to a method for enhancing engraftment of hematopoietic progenitor cells in a mammal by administering isolated pluri-differentiated mesenchymal progenitor cells.

V. Claims 35-39, drawn to a method for treating graft-versus-host disease (GvHD) in a mammal by administering isolated pluri-differentiated mesenchymal progenitor cells.

VI. Claim 40, drawn to a method for diagnosing a disease state.

VII. Claims 21 and 41, drawn to a method for identifying therapeutic targets for treating hematopoietic function.

Applicant provisionally elects Group I, claims 22-25 for prosecution purposes, with traverse. Applicant hereby conditionally withdraws claims 21, and 26-41 from prosecution, without prejudice, and requests reconsideration of the restriction requirement.

Applicant traverses the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the Patent Office. All the groups of claims relate to pluri-differentiated cells. It is respectfully submitted that examination of all the claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice.

More specifically, as distinguished from the prior art cited in the Office Action, the present invention relates to pluri-differentiated cells. The prior art pertains to pluri-potent cells that are not necessarily pluri-differentiated cells. It has been shown in the prior art that some stem cells have the capability of transdifferentiating by turning stem cells into a variety of tissues, revealing their extraordinary pluri-potentiality. The term pluri-potential, as described at page 12, lines 6-7 of the present application, refers to cells that are undifferentiated and have the potential to be differentiated into discrete mesenchymal tissues. This is distinct from pluri-differentiated cells, which are cells of a single cell type co-expressing genes specific for multiple lineages. Thus the creation of the pluri-differentiated cells of the present invention and the use of the same all relate

When? Under what condition?
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to the general premise of the cells, namely the use of the cells in preventing adverse reactions against the cells when placed in a system and the cells' ability to aid in engrafting other cells. In other words, the pluri-differentiated cells of the present invention enhance engraftment and prevent adverse reactions to the cells when placed in a foreign system. The cells themselves and the uses all relate to the qualities found in the pluri-differentiated cells. Thus, the claims all relate to a single inventive concept, the pluri-differentiated cells. It is therefore respectfully submitted that restriction should not be required and that Applicant has traversed the restriction requirement. However, as stated above, Applicant has elected the claims of Group I and has provisionally withdrawn claims 21 and 26-41, without prejudice, pending reconsideration of the restriction requirement.

The application is now in condition for allowance, which allowance is respectfully solicited.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.




Respectfully submitted,

KOHN & ASSOCIATES, PLLC

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Dated: January 30, 2003

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I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on 1/30, 2003.


Angel Webb